IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 10223 of 1998

Between:

M.Prabhakara Rao S/o Mallikarjuna Rao, Auction Superintendent

Auction Platform No.4, Periyapatna, Mysore District, Karnataka

State.

.... PETITIONER

AND

1. The Union of India rep. by its Secretary and Appellate

Authority, Ministry of Commerce, New Delhi.

2. The chairman, Tobacco Board, Guntur ,Andhra Pradesh.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly one in the nature of writ of certiorari and call for all relevant and connected records relating to proceedings No.TB/Vig./MPR/92/2065, dated 8.6.94 of the 2nd respondent and order No.1/17/92-EP(Agri.VI)/1, dt.21.10.1997 of the 1st respondent and quash or set aside the same holding it as arbitrary, illegal, unjust , unsustainable and violative of Article 14 of the Constitution of India and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.NUTY RAM MOHAN RAO

Counsel for Respondent No.1: Mr.B.Adinarayana Rao

Counsel for the Respondent No.2: MR.S.SRINIVAS REDDY

The Court made the following:

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ORDER:

This writ petition is filed questioning the Proceedings No. TB/Vig./MPR/92/2065, dated 8.6.1994, on the file of the second respondent and Order No.1/17/92-EP (Agri.VI)/1, dated 21.10.1997, on the file of first respondent confirming the order of the second respondent and to declare the same as arbitrary and illegal.

2. It is the case of the petitioner that he was appointed as Field Officer with effect from 10.2.1977 in the respondent organization and he has earned promotion as a Senior Grade Officer and Auction Superintendent. He maintained a fairly decent record giving no scope from any corner. He was posted as Auction Superintendent in the Auction Platform No.11 at Nandigama, Guntur District. While so, he was issued with a charge sheet on 23.12.1992 alleging that he allowed M/s. Sri Sanjay Tobacco, Guntur to purchase tobacco in excess of the letter of standing instructions and also allowed M/s Sanjay Tobacco to purchase tobacco without official security and without receiving sale consideration, thereby resulting in loss. A detailed enquiry was conducted and the enquiry officer submitted his report. The enquiry officer found no motives against the petitioner. On the other hand, it was stated that what was done by the petitioner was with a good intention only. However, the petitioner should not have allowed the bales to be lifted by the said company without receiving the payment. He also failed to recover an amount of Rs.35,350.96 ps. from M/s Tobacco Company though the tobacco purchased by them was covered by bank guarantee. He did not verify the computer report etc. On the basis of the enquiry report, the disciplinary authority, after completing the formalities passed an

order imposing a punishment of stoppage of one increment with cumulative effect for two years. Aggrieved by the same, he has preferred an appeal before the first respondent and the appellate authority refused to interfere with the order passed by the disciplinary authority and dismissed the appeal by order dated 21.10.1997. Aggrieved by the same, the present writ petition is filed.

3. A detailed counter affidavit has been filed denying allegations made by the petitioner.

4. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

5. It is not the case of the petitioner that he did not allow the tobacco companies to purchase in excess of the limits, in favour of the buyers. It is also not his case that he has collected the sale consideration before parting with tobacco. It is the contention of the petitioner that all he did was with a *bona fide* intention for the good of buyer. In fact, he explained the ground position, which was advantageous to the Board and on their advice, he had allowed to purchase the tobacco. But, he failed to produce any evidence to that effect. The enquiry officer, though stated that with a good intention, the petitioner has done it, but he had no such power to do so and the action of the petitioner was in violation of the Rule 3(i)(ii) of the CCS (Conduct) Rules, 1964. It is held that the petitioner has permitted the tobacco companies to purchase tobacco in excess of the limits and he permitted the stocks to leave without collecting sale consideration, which itself is gross violative of the rules. May be the Board was able to collect the sale consideration thereafter, but that does not absolve the petitioner from the misconduct. In fact, the disciplinary authority as well as the appellate authority have taken a pragmatic view of the situation and were very lenient in awarding punishment of stoppage of one increment with cumulative effect for a period of only two years. I am of the considered opinion that there are no perverse findings or lapses on the part of the enquiry officer in conducting the enquiry or that the punishment imposed is disproportionate to the misconduct alleged. The impugned order does not call for interference at the hands of this Court

under Article 226 of the Constitution of India.

5. The writ petition is devoid of merits and is liable to be dismissed. The writ petition is accordingly dismissed. No order as to costs.

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C.V.RAMULU, J

Dated: 9.6.2005.

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To

1. The Secretary and Appellate Authority, Ministry of Commerce, Union of India, New Delhi.

2. The chairman, Tobacco Board, Guntur ,Andhra Pradesh.

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